

REMARKS

Claims 1; 3; 4; 9; 15; 17; and 18 have been amended. Claims 6 to 8; 10 to 14; 16; and 19 have been canceled. New claims 20 to 24 have been added.

Claims 1 to 5; 9; 15; 17; 18; and 20 to 24 remain in the application. Of these, claims 1 and 21 are independent device claims.

Reexamination and reconsideration are respectfully requested in view of these amendments and the remarks that follow.

It is believed that the amendment to claim 17 overcomes the Examiner's objections to the drawings. The drawings (Fig. 19) show a plunger with openings 103 through which air can be purged (see Specification Page 21, lines 6 to 8).

The claims stand rejected under 35 U.S.C. §102(b) based either on Murray US 5,348,391; Brown US 5,842,785; or Hays US 5,549,381. The claims also stand rejected under 35 U.S.C. §103(a) based upon various combinations of Murray or Brown or Hays with Seddon US 5,494,349; Chan US 4,973,168; Berg US 3,546,129; or Lorenz US 4,294,293.

Independent claim 1 has been amended and new independent claim 21 has been added to define a device neither taught nor suggested by any of these documents. As defined in amended independent claim 1 and new independent claim 21, a device comprises includes a receptacle having an interior for receiving components of a bone filling material in an unmixed condition. The receptacle includes a first end region and a second end region oppositely spaced from the first end region. A mixing element is insertable into the interior of the receptacle through the first end region to mix the components. A plunger is also insertable into the interior of the receptacle through the first end region. The plunger is advanceable through the interior toward the second end region to dispense bone filling material through a dispenser outlet that is formed adjacent the second end region.

In Murray, Brown, and Hays, the mixing element and the plunger access the mixing chamber from opposite ends of the chamber, not from the same end, as defined in amended claim 1 and new claim 21. As a result, in Murray, Brown, and Hays, the bone filling material must exit the chamber from the same end as the mixing element is inserted, and not from the opposite end, as defined in amended claim 1. This means that, in Murray, Brown, and Hays, the mixing chamber must be removed from its support stand after mixing, turned around, and placed into a separate dispensing device to operate the piston. Chen and Seddon show an arrangement identical to Murray, Brown, and Hays, in which the filling material is removed through the same end of the mixing chamber

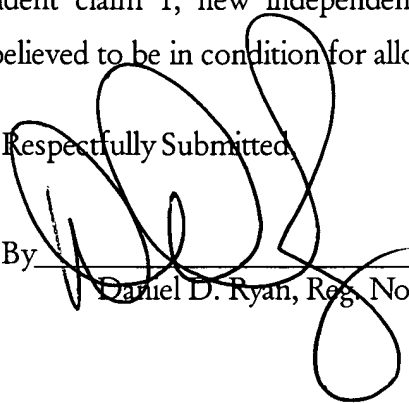
accessed by the mixing element. Likewise, Lorenz and Berg do not teach or suggest a device that accommodates insertion of a mixing element and a plunger through the same end of a mixing chamber.

Furthermore, Murray, Brown, Hays, and Chen do not teach or suggest a device in which mixing and dispensing occurs in a device without removal of the device from a support stand (this feature is defined in claim 18 (dependent upon amended claim 1) and new independent claim 21). The other documents – Seddon and Lorenz and Berg – likewise do not teach or suggest a consolidated mixing and dispensing device as defined in claims 18 and 21.

For these reasons amended independent claim 1, new independent claim 21, and the independent claims presented with them, are believed to be in condition for allowance.

Respectfully Submitted,

By


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